

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Richmond Division**

In re:	:	Chapter 11
	:	
Circuit City Stores, Inc., <i>et al.</i> ,	:	Case No. 08-35653 (KRH)
	:	
Debtors.	:	

**RESPONSE OF BOSTON ACOUSTICS, INC. TO DEBTORS'
THIRTY-THIRD OMNIBUS OBJECTION TO CLAIMS (MODIFICATION AND/OR
RECLASSIFICATION OF CERTAIN CLAIMS)**

COMES NOW Boston Acoustics Inc., (“Boston Acoustics”), by the undersigned counsel, and for its response to *Debtors’ Thirty-Third Objection to Claims (Modification and/or Reclassification of Certain Claims)* (“Objection”), and states as follows:

1. On or about January 30, 2009, Boston Acoustics timely filed an amended¹ claim with Debtor’s claims agent, Kurtzman Carson Consultants, in the total amount of \$503,373.29. The claim has been assigned claim number 9230 (the “Claim”). The Claim asserted \$187,454.84 as entitled to administrative expense status, and \$315,918.15 as general unsecured. A copy of the Claim is attached hereto and incorporated in full by this reference as **Exhibit A**. The Debtor’s Objection seeks to reclassify the Claim entirely to a general unsecured claim.

2. The administrative expense portion of the Claim is based upon goods sold and delivered to Debtor, in Debtor’s ordinary course of business, within forty-five (45) days of the commencement of Circuit City’s bankruptcy case. See, 11 U.S.C. § 546(c). Additionally, it is

¹ The original claim was filed on or about December 19, 2008, in the amount of \$187,454.84.

based on the reclamation demand letter of November 10, 2008, from John Henderson, Director of Credit, D & M Holdings US, Inc.², to Bruce H. Besanko, Chief Financial Officer, Circuit City Stores, Inc. A copy of Mr. Henderson's letter is attached to the Claim.

3. The goods delivered to Debtor within forty-five (45) days of its bankruptcy petition were shipped, in general, pursuant to a letter agreement between Boston Acoustics, Inc. and the Debtor, dated August 2, 2006 ("Letter Agreement"). A copy of the Letter Agreement is attached hereto and incorporated in full by the reference as **Exhibit B**.

4. The person with knowledge of this claim is Mr. John Henderson, as identified above. A Declaration of John Henderson is attached hereto and incorporated in full by this reference as **Exhibit C**.

5. Boston Acoustics reserves its rights to supplement this Response in advance of any final hearing on the Objection.

WHEREFORE, Boston Acoustics respectfully requests the Court overrule the Objection, and allow Boston Acoustics' claim as filed, and grant such further relief as is just and proper under the circumstances.

Respectfully Submitted,
BOSTON ACOUSTICS, INC.

By Counsel

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² D & M Holdings is the parent company to Boston Acoustics.

CERTIFICATE OF SERVICE

I hereby certify that on this 14th day of September, 2009, a true and accurate copy of the foregoing was electronically filed with the Clerk of the Bankruptcy Court for the Eastern District of Virginia, Richmond Division, using the CM/ECF system, which thereby caused the above to be served electronically on all registered users of the ECF system that have filed notices of appearance in this matter, and was mailed, by U.S. Mail, first class, postage prepaid, to all persons on the Service List below:

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